

**Before the
Federal Communications Commission
Washington, D.C. 20554**

IN THE MATTER OF)	
)	
)	WC Docket No. 04-313
<i>Unbundled Access to Network Elements</i>)	
)	CC Docket No. 01-338
<i>Review of the Section 251 Unbundling</i>)	
<i>Obligations of Incumbent Local Exchange</i>)	
<i>Carriers</i>)	

**SUMMARY OF THE STATUS OF THE PUBLIC SERVICE COMMISSION FOR
THE STATE OF NEBRASKA’S DOCKET NO. 3206**

The Public Service Commission of the State of Nebraska (Nebraska) respectfully submits summary of the status of its own Triennial Review Proceedings electronically in response to the August 20, 2004 released *Order and Notice of Proposed Rulemaking (Interim Order and NPRM)*, FCC 04-179, 69 Federal Register 55128 (September 13, 2004) seeking input on a variety of issues related to the development of final network unbundling rules. Compact disks containing filings made and orders entered will be filed via first class mail to the FCC within one week of the filing of this summary.

On October 7, 2003, Nebraska opened Docket No. C-3026 to conduct a 9-month proceeding to address issues raised by the FCC’s Triennial Review Order.¹ Nebraska further adopted a procedural schedule setting forth deadlines for intervention and discovery, and setting the matter for hearing. A protective order was entered on November 25, 2003 which permitted use of confidential information “the purpose of preparation for and conduct of proceedings in [C-3026] or . . . before the Federal Communications Commission (FCC)”. Any confidential material provided to the FCC is contained on a separate CD and marked confidential. Such information shall be treated consistent with the protection order entered by the FCC in the present docket.

On March 2, 2004, the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) released its decision in *United States Telecom*

¹ *Review of the Section 251 Unbundling Obligation of Incumbent Local Exchange Carriers; Implementation of the Local Competition Provision of the Telecommunications Act of 1996; Deployment of Wireline Services Offering Advanced Telecommunication Capability*, CC Docket Nos. 01-338, 96-98, 98-147, Report and Order on Remand and Further Notice of Proposed Rulemaking, FCC 03-36 (Rel. Aug. 21, 2003).

Association v. Federal Communications Commission, Decision 00-1012. Subsequently, the Commission suspended its nine-month proceeding in Docket No. C-3026. A summary of the nature of the information gathered prior to that suspension is contained herein. No confidential information is contained within this summary. All supporting documentation is contained on a separate CD.

Batch Hot Cut Process

In its initial TRO, the FCC found that ILECs' existing methods for migrating in-service loops from their own switches to those of their competitors served as a barrier to competitive entry in the absence of unbundled switching for mass-market customers due to the imposition of significant, one-time costs and risks of service disruptions. The FCC noted that conducting such migrations on a batch basis could improve the impairment.

On November 5, 2003, the Commission adopted a proposal filed on October 31, 2003, by Qwest Communications, AT&T and WorldCom, Inc. requesting a multi-state forum for both ILECs and CLECs and Commission staff in order to address the batch hot cut requirements of the FCC's TRO. Pursuant to that Order, Qwest Corporation ("Qwest") filed a proposal to be used in all fourteen of its states when a CLEC has the requisite number of qualified lines to convert from Qwest's circuit switch, including retail and CLEC UNE-P lines, to the CLEC's circuit switch. Qwest asserted that it had substantial experience in migrating large batches of CLEC lines from UNE-P to stand-alone unbundled loops; that its proposed process would be more time efficient; and result in lower costs.

Qwest outlined its hot cut process as it was conducted at the time the proposal was filed. It provided the affidavit of William M. Campbell, filed before the FCC in a prior 271 docket in Arizona. A copy of Qwest's filing and the comments received from other carriers are contained in the CD. The following represents some of the comments made.

AT&T filed comments regarding Qwest's proposed process stating that it did nothing to change the operational impairment resulting from the fact that hot cuts required a physical disconnect of a customer's loop from the switch and reconnect to the new network. AT&T further stated that Qwest's proposal failed to address the impact on costs to the CLECs and quality of service. MCI also filed responses to Qwest's proposal

stating that it would cause a reduction in service quality. MCI asserted that any batch hot cut process must also address other areas of impairment including CLEC to CLEC migrations and CLEC to ILEC migrations and that consideration must be given to developing neutral cost recovery mechanisms. MCI further outlined its batch hot cut process criteria which include: (a) any process must be mechanized to comply with requirements of seamlessness, scalability and low cost; (b) the process must be relatively free of exclusions; (c) the process should maximize the ability to rely upon existing electronic bonded systems; (d) the process should provide both a coordinated hot cut and frame due time option, with a due date scheduling function that can be accessed electronically by CLECs; (e) the process should include performance measures, remedies and commercial testing; (f) the process should include along-term testing schedule; and (g) a TELRIC-compliant rate reflecting the efficiencies from the batch process must be established. McLeod USA also responded to Qwest's proposal for a region-wide batch loop process. McLeod stated that Qwest should clarify the minimum/maximum line volumes per day per CLEC; the definition of "Basic Installation" and the intervals per batch. McLeod also commented regarding the scalability, economic impacts, testing, and scope of the process.

Although meetings were held with industry, no consensus was reached prior to the suspension of C-3026.

Consolidated Discovery

As set forth in the procedural order, the Commission issued consolidated discovery requests. Commission staff requested information from industry regarding: switches used to provide qualifying service as defined in 47 C.F.R. § 51.5, ILEC wire center districts; the number of business and residential lines and whether they are served via a complete facilities bypass, through resale or through UNE-P; the number and use of voice-grade equivalent lines; use of the switches of other entities through a wholesale, lease, or resale arrangement in providing local exchange service and terms for the use; whether an entity provides such access through switches it owns and the terms; hot cut processes currently used; proposed batch hot cut processes; whether local switching capacity could be expanded through modular software or hardware additions; any costs associated with converting or using a switch to serve mass-market customers;

percentages of customers lost to other carriers; customer acquisition costs; rate plans offered to Nebraska customers; and information regarding CLEC to CLEC cross-connects in Nebraska.

Discovery responses and objections were filed by ICG Telecom Group, Inc., Cox Nebraska Telecom, AT&T; Qwest Corporation, Pinpoint Communications, Inc., Alltel Nebraska, Inc., MCI Worldcom Communications, Inc., MCI Metro Access Transmission Services LLC, Alltel-CLEC Communications of the Midwest, Inc., Nebraska Technology & Telecommunications, Inc., and McLeod USA. Certain carriers made additional discovery requests. Much of the information provided in the responses was confidential and/or proprietary and has therefore been provided on the CD marked confidential submitted in support of this filing. To the extent non-confidential material was provided, the responses are included on the remaining CD submitted in support of this filing.

Testimony Submitted

Prior to the suspension of C-3026, some parties had submitted direct and/or rebuttal testimony on various issues. Copies of the testimony are included on the CD submitted in support of this filing. To the extent confidential information was submitted, it is available on the CD marked confidential and submitted in support of this filing.

Testimony Regarding Batch Hot Cut Process

Qwest submitted the testimony and rebuttal testimony of Robert H. Brigham on January 26 and February 19, 2004 respectively and the joint testimony and rebuttal testimony of Dennis Pappas and Matt White on January 23 and February 19, 2004 respectively. Mr. Brigham's testimony was intended to present the nonrecurring Total Element Long Run Incremental Cost ("TELRIC") study used to support the rates for Qwest's proposed batch hot cut process. And to address the volume estimates for the process. According to Mr. Brigham's testimony the cost study identified the one-time costs incurred when the customer's UNE loop is provisioned through the batch hot cut process resulting from a CLEC batch order and are labor-related. Additional costs included in the study relate to those costs incurred by Qwest to develop mechanized systems to support the process such as an "appointment scheduler" and "batch status tool".

Qwest submitted the direct testimony of Lorraine Barrick on January 23, 2004. Ms. Barrick's testimony addressed the testing of Qwest's proposed batch hot cut process. Through Hitachi Consulting, she was retained to review Qwest's current hot cut process and performance, review the proposed batch hot cut process along with CLEC comments and concerns, develop a testing plan to assess quality and efficiency of the proposed process, make recommendation to improve the process and observe commercial testing of the process.

Qwest submitted the joint direct testimony and joint rebuttal testimony of Dennis Pappas and Matt White on January 23, 2004 and February 19, 2004 respectively. Mr. Pappas' direct testimony and rebuttal testimony were intended to address the requirements of the TRO, Qwest's existing processes for migrating loops from its switch to a CLEC switch, the overall design and background of its proposed batch hot cut process and how the process could alleviate the impairment finding, and the additional questions and concerns raised by CLECs regarding the process. Mr. Pappa also addressed the ability of its proposal to meet the FCC's directive to establish a procedure for the seamless migration of stand-alone unbundled loops. Mr. White's direct testimony and rebuttal testimony were intended to describe Qwest's existing and planned operational support systems involved in the batch hot cut process including pre-ordering and ordering systems, proposed modifications to the operational support systems to allow larger quantities of stand-alone unbundled loops and to track orders and the change management process.

McLeod USA submitted the direct testimony of Patty Lynott regarding the hot batch cut process. Ms. Lynott addressed disputed issues regarding the batch hot cut process. First, the process must be economical. The process must also be scaleable and efficient in order to migrate existing, embedded UNE-P base, future Qwest Retail to CLEC UNE-L order, CLEC to CLEC and new customers. Additionally, she testified the process should include intervals in parity with the ILEC's current UNE-P and retail intervals. Ms. Lynott further testified that the process must include IDLC loops and customer loops that have been requested for the first time. Finally, the process must include testing and performance measures and an approved remedy plan before state

commissions make findings of non-impairment. Ms. Lynott stated that Qwest's proposed batch hot cut process was not scaleable; that tests indicated that Qwest could only convert a maximum of 50-60 lines per day per central office and that the interval was too long.

AT&T Communications of the Midwest, Inc. and TCG Omaha, Inc. ("AT&T") submitted the testimony and rebuttal testimony of Robert V. Falcone on January 23 and February 17, 2004 respectively. In his direct, Mr. Falcone testified that use of the hot cut process to migrate customers to a CLEC-owned switch using an ILEC loop is dependent on manual work making the process cost prohibitive, subject to errors impacting customer service, and not scalable to handle potential commercial volumes. AT&T therefore asserts that CLECs will remain impaired by any manual hot cut or loop migration process. AT&T asserts that the Commission should develop a review process to insure that any batch hot cut process will meet expectations and provide feedback regarding the extent to which CLECs remain impaired. In his rebuttal testimony, Mr. Falcone addresses the testimony submitted from Qwest, Robert Brigham and Lorraine Barrick. His rebuttal testimony reiterates AT&T's concerns regarding Qwest's proposal, discusses Mr. Brigham's testimony regarding the estimated hot cut volumes and addresses Lorraine Barrick's testimony regarding Hitachi's test of Qwest's batch hot cut process.

AT&T also submitted the rebuttal testimony of Arleen Starr on February 17, 2004. Ms. Starr testified regarding Qwest's proposed batch hot cut nonrecurring charges and AT&T's recommended rates for the batch hot cut process proposed by Qwest. Generally, Ms. Starr testified that Qwest's cost study included unnecessary steps, redundant activities, excessive time estimates, an inappropriate level of flow through and overstated annual cost factors resulting in significantly overstated rates.

MCIMetro Access Transmission Services LLC and MCI Worldcom Communications, Inc. submitted the joint direct testimony and join rebuttal testimony of Sherry Lichtenberg and Timothy Gates on January 23, 2004 and February 17, 2004 respectively. In sum, their direct testimony addresses the mechanization of the batch hot cut process, limitations of Qwest's proposal with respect to order types, the lack of information provided by Qwest with respect to costs or rates related to its batch hot cut process, the scalability of Qwest's proposed process, and the testing and monitoring of

the proposed process. Within their joint rebuttal testimony, Ms. Lichtenberg and Mr. Gates claim that Qwest's rates are excessive, that Qwest's claims fail to show that its proposed batch hot cut process would remove the finding of impairment, recommend changes to the proposal that would allow for the removal of the finding of impairment in certain circumstances, and recalculates rates for the per loop install of the batch hot cut process using different assumptions.

No other testimony was submitted. Copies of all testimony and exhibits are included in the CDs submitted in support of this summary.